

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

James Paul Aery,

Civ. No. 22-0012 (KMM/BRT)

Plaintiff,

v.

ORDER

Nick Lewis and Kyle Beckwith,

Defendants.

IT IS HEREBY ORDERED that:

1. Plaintiff James Paul Aery's motion to amend (Doc. No. 4) is **GRANTED**.

See Fed. R. Civ. P. 15(a)(1).

2. The Report and Recommendation of February 14, 2022 (Doc. No. 3) is **VACATED AS MOOT** due to the amended complaint becoming the operative pleading in this matter.

3. Aery's application to proceed *in forma pauperis* (Doc. No. 2) is **GRANTED**.

4. Aery must submit a properly completed Marshal Service Form (Form USM-285) for each defendant. If Aery does not complete and return the Marshal Service Forms within 30 days of this order, it will be recommended that this matter be dismissed without prejudice for failure to prosecute. Marshal Service Forms will be provided to Aery by the Court.

5. After the return of the completed Marshal Service Forms, the Clerk of Court is directed to seek waiver of service from defendants Nick Lewis and Kyle Beckwith in their personal capacities, consistent with Rule 4(d) of the Federal Rules of Civil Procedure.

6. If a defendant sued in his or her personal capacity fails without good cause to sign and return a waiver within 30 days of the date that the waiver is mailed, the Court will impose upon that defendant the expenses later incurred in effecting service of process. Absent a showing of good cause, reimbursement of the costs of service is mandatory and will be imposed in all cases in which a defendant does not sign and return a waiver of service form. *See* Fed. R. Civ. P. 4(d)(2).

7. The U.S. Marshals Service is directed to effect service of process on Lewis and Beckwith in their official capacities as agents of Beltrami County consistent with Rule 4(j) of the Federal Rules of Civil Procedure.

8. Aery must pay the unpaid balance (\$350.00) of the statutory filing fee for this action in the manner prescribed by 28 U.S.C. § 1915(b)(2), and the Clerk of Court shall provide notice of this requirement to the authorities at the institution where Aery is confined. The requirement that Aery pay an initial partial filing fee is waived due to Aery having no assets and no means to pay such a fee. *See* 28 U.S.C. § 1915(b)(4).

Dated: March 14, 2022

s/ Becky R. Thorson
BECKY R. THORSON
United States Magistrate Judge